

**Notice of Allowability**

Application No.

09/775,688

Applicant(s)

EDGAR, ALBERT D.

Examiner

Art Unit

Patrick L. Edwards

2621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 31 May 2005.
2. ☒ The allowed claim(s) is/are 5-7.
3. ☒ The drawings filed on 31 May 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____   |

Art Unit: 2621

### **DETAILED ACTION**

1. The response received on 31 May 2005 has been placed in the file and was considered by the examiner. An action on the merits follows.

#### ***Response to Arguments***

2. The arguments filed on 31 May 2005 have been fully considered. A response to these arguments is provided below.

#### **Drawing Objections**

##### **Summary of Argument:**

(a) Figure 8 was objected to in the previous office action because it contained an identifier (806) which was allegedly not mentioned in the specification. Applicant, however, points to the exact location of the specification where this identifier can be found.

(b) Figure 5 was objected to in the previous office action because the reference identifier numbers were inconsistent with those used in the corresponding description. Applicant has provided a replacement drawing sheet with the necessary corrections.

##### **Examiner's Response:**

(a) Applicant is correct in that the final paragraph of pg. 12 of the specification does indeed refer to identifier 806. The previous objection was therefore erroneous and is hereby withdrawn.

(b) Figure 5 is now consistent with the accompanying description. Accordingly, the prior objection is hereby withdrawn.

#### **37 CFR 1.75 Claim Objections**

##### **Summary of Argument:**

In the previous office action, independent claims 1, 9, 16, and 22 were objected to because of grammatically awkward and ambiguous language. These claims have been cancelled by applicant's most recent amendment.

##### **Examiner's Response:**

The cancellation of these claims renders the prior objections moot.

#### **35 USC 112, First and Second Paragraph Rejections**

##### **Summary of Argument:**

(a) In the previous office action, independent claim 5 was rejected under 35 USC 112(1) because it contained subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. Applicant has amended the claim and argues that this amendment obviates the previous rejection.

Art Unit: 2621

(b) Independent claim 5 was also rejected under 35 USC 112(2) as being indefinite for the reasons detailed in the 35 USC 112(1) rejection. Applicant's amendment to claim 5 corrected the enablement problem (see above paragraph).

Examiner's Response:

(a) The examiner agrees. The amendment to the claim has corrected the enablement problem and obviated the previous rejection.

(b) The 35 USC 112(2) rejection was based on the 112 first paragraph rejection—which has been withdrawn. Accordingly, the 112 second paragraph rejection is also withdrawn.

*Allowable Subject Matter*

3. Claims 5-7 are allowed.

4. The following is an examiner's statement of reasons for allowance:

The subject matter previously indicated to be allowable is now incorporated into the sole independent claim by way of applicant's most recent amendment. Accordingly, this claim is now allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick L. Edwards whose telephone number is (571) 272-7390. The examiner can normally be reached on 8:30am - 5:00pm M-F.

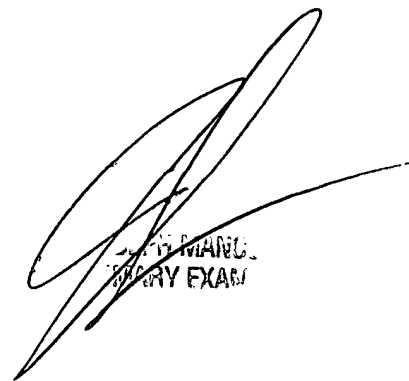
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Mancuso can be reached on (571) 272-7695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patrick L. Edwards

Art Unit 2621

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JOE MANCUSO  
SENIOR EXAMINER